RECENT IMPORTANT DECISIONS

ACKNOWLEDGMENT—USE OF "HE" INSTEAD OF "THEY."—A certificate of acknowledgment, stating that the grantors, naming them separately, appeared before the notary and acknowledged that "he" executed the instrument, etc., was *Held* insufficient to entitle the instrument to be admitted in evidence as a recorded instrument. *Kane et al.* v. *Scholars et al.* (1905), — Tex. —, 90 S. W. Rep. 937.

Where an instrument is defectively acknowledged it is not entitled to be introduced as evidence of title without proof of execution. But a mere clerical error will not vitiate a certificate of acknowledgment, and the court in the case of *McCardia* v. *Billings* (1901), 10 N. Dak. 373, 87 N. W. 1008, where a similar state of facts existed, said "that they would construe the language of certificates of acknowledgment liberally and hold them valid if that could be done by a fair and reasonable construction of the language used," and held that the use of "he" instead of "they" was a mere clerical error. In the case of *Montgomery* v. *Hornberger* (1897), 16 Tex. Civ. App. 28, there was a similar holding in regard to the use of "the" for "they." While the courts have been very exacting in regard to certificates of acknowledgment of married women (*Sarazin* v. *Railroad* (1900), 153 Mo. 479; 55 S. W. 92), there seems to be no very good reason for such stringency in the principal case.

ADVERSE POSSESSION—EASEMENT—LICENSE—LEGAL MAXIM.—B, having no outlet from his farm to the highway, in 1859 obtained of W, the owner of the land adjoining, a written license by which was granted the right to use the south twenty feet of W's land as a private road. B and his successors and grantees used this strip as a private way for 36 years. W died in 1876. In 1895 the plaintiff, the owner of part of the W estate, fenced up the right of way, and the fence being torn down, rebuilt it the same year. In 1903 defendant, the present owner of the B estate, tore down the fence, and for this alleged act of trespass the suit is brought. *Held,* that defendant could set up a claim of title by adverse possession continued for the statutory period, without showing distinct notice of an adverse claim other than that implied by his continued use. *Toney* v. *Knapp* (1906), — Mich. —, 106 N. W., — 12 Detroit Legal News 872.

The defendant's position was that, inasmuch as the license given by W in 1859 was revoked by his death and the conveyance of the property by his heirs, the continued use of the right of way by the licensee became open, hostile and notorious, although no notice was given by him or act or word said to indicate to the licensor that he intended to convert at once a permissive use into a notoriously hostile one. This position was sustained by the court, three justices vigorously dissenting. The ground taken by the minority was that to constitute adverse possession, the possession relied on must have been so open and notorious as to show knowledge in the plaintiff and that in the absence of other showing, the maxim "Every one is presumed to know the law," alone is insufficient to fix knowledge on the plaintiff